

STATE OF WISCONSIN Division of Hearings and Appeals

In the Matter of:	
	DECISION

PRELIMINARY RECITALS

Pursuant to a petition filed October 24, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Public Assistance Collection Unit ["PACU"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 8, 2015.

The issue for determination is whether the following Claim may be established against petitioner for an MA overpayment: Claim Number January 1, 2015 to May 31, 2015; \$689.09.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services 1 West Wilson Street, Room 651 Madison, Wisconsin 53703

> Public Assistance Collection Unit PO Box 8938

> > Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # was a resident of Wisconsin but is now a resident of Oregon.

- 2. The following Claim was established against petitioner for an overpayment of MA: Claim Number January 1, 2015 to May 31, 2015; \$689.09. Exhibits #2.
- 3. Petitioner was receiving MA in Wisconsin and moved to Oregon in late 2014; she failed to report her move to Wisconsin in a timely manner and continued to receive Wisconsin MA while she lived in Oregon. Exhibits #1 & #2.
- 4. The MA overpayment in *Findings of Fact* #2, above, resulted from the fact that petitioner failed to report her move to Oregon in a timely manner; as a result petitioner received Wisconsin MA benefits when she should not have. Exhibits #1 & #2.

DISCUSSION

An overpayment of MA benefits may be recovered only in the following 3 circumstances:

- A. A misstatement or omission of fact by a person supplying information in an application for benefits;
- B. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits; or,
- C. The failure of an MA or BadgerCare recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Wis. Stat. § 49.497(1)(a) (2013-14); See also, *Medicaid Eligibility Handbook* ["MEH"] 22.2.1; BEM/DWS Operations Memo, No: 05-39, Date: 09/29/2005; and, BEM/DWS Operations Memo, No: 06-10, Date: 02/09/2006.

In this case it was not until April 22, 2015 that petitioner reported to Wisconsin that she had moved to Oregon. Wisconsin then stopped petitioner's MA as soon as administratively possible which was May 31, 2015.

Petitioner failed to report in a timely manner that she moved to Oregon. Petitioner does not deny this. This caused the MA overpayment listed in *Findings of Fact* #2, above. In order to be eligible for MA a person must be a resident of Wisconsin. Wis. Admin. Code § DHS 103.03(3)(b) (July 2015); *Medicaid Eligibility Handbook* ["MEH"] 6.1.1.; *BadgerCare Plus Eligibility Handbook* 3.1

CONCLUSIONS OF LAW

For the reasons discussed above, the following Claim may be established against petitioner for an MA overpayment: Claim Number January 1, 2015 to May 31, 2015; \$689.09.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received** within 20 days after the date of this decision. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison, Wisconsin, this 18th day of December, 2015

\sSean P. Maloney Administrative Law Judge Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 18, 2015.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability